

In the
Indiana Supreme Court



HAROLD MCCOMB & SON, INC.)	Supreme Court No.
Plaintiff)	
)	
vs.)	Case No. 02S00-0710-SJ-393
)	
INDIAN VILLAGE APARTMENTS, LLC)	
Defendant)	
Cross-Defendant)	
)	
and)	
)	
AMERICAN RENOVATIONS OF)	
INDIANA, INC,)	in the Allen Superior Court
Intervening Defendant)	Case No. 02D01-0504-CC-392
Cross-Plaintiff.)	

JP MORGAN CHASE BANK, NA)	
Successor by merger to Bank One, NA)	
Plaintiff)	
)	
v.)	
)	
INDIAN VILLAGE APARTMENTS, LLC,)	in the Allen Superior Court
et. al.)	Consolidated Case
Defendants.)	Case No. 02D01-0603-MF-80
)	

ORDER REMANDING JURISDICTION TO TRIAL COURT

Comes now the Clerk of the Allen Superior Court, and pursuant to Ind.Trial Rule 53.1, certifies this matter here for the appointment of a special judge.

And this Court, being duly advised, now finds that jurisdiction of this matter should be remanded to the Allen Superior Court and Judge David J. Avery. The Chronological Case Summary reveals that on two occasions, more than thirty days after the trial court took JP Morgan's motion for partial summary judgment under advisement, JP Morgan requested the trial court to set the matter for status conference. By taking action inconsistent with its right to insist that the trial court rule within thirty days, JP Morgan has waived its right to have the submission of the matter withdrawn from the trial court.

IT IS, THEREFORE, ORDERED that jurisdiction of this matter is remanded to the Allen Superior Court and Judge Avery for entry of a decision on the motion for partial summary judgment.

The Clerk of this Court is directed to forward notice of this Order to the Hon. David Avery, Allen Superior Court, 715 South Calhoun Street, #319, Fort Wayne, IN 46802-1805, and to the Clerk of the Allen Superior Court.

The Clerk of the Allen Superior Court is directed to forward notice of this Order to all parties of record in the case below.

DONE at Indianapolis, Indiana, this 23rd day of October, 2007.

R.T. Shepard

Randall T. Shepard
Chief Justice of Indiana